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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF  
ENFORCEMENT

MEMORANDUM

DATE: July 7, 1980

SUBJECT: PSD Applicability: Industrial Scrap Processing Company

FROM: Director  
Division of Stationary Source Enforcement

TO: Samuel P. Moulthrop, Acting Chief  
General Enforcement Branch, Region II

This is in response to your memo of May 19, 1980, in which you requested guidance on the applicability of PSD regulations to an automobile shredding plant in New York City.

According to your memo, the plant in question has four diesel engines, whose potential to emit, absent any enforceable permit conditions, exceeds 250 tons/year of CO and NOx. Two of the engines generate electricity for the entire plant and two engines directly drive the shredder. In order to avoid PSD review, by reducing the source's potential to emit, the company would like to limit the hours of operation of the shredder with a binding permit condition.

PSD applicability under the January 30, 1980 stay is determined by a source's potential to emit under both the September 5, 1979 proposed PSD regulations and the June 19, 1978 regulations.

The September 5, 1979 proposed PSD regulations do not provide for limited hours of operation when determining a source's potential to emit. Under the proposal, potential to emit is based on the capability at maximum design capacity to emit a pollutant after the application of air pollution control equipment. Since the source's emissions are uncontrolled, applicability will depend on any limitations which can be imposed under the June 19, 1978 PSD regulations.

The June 19, 1978 PSD regulations allow for potential to emit to include limitations on hours of operation but not the use of air pollution control equipment.

If the automobile shredding plant has the potential to emit 250 tons/year or more of emissions, permit conditions limiting hours of operation of the shredder may be used to avoid PSD review. These permit conditions must be federally enforceable, which would require a SIP revision, or inclusion within a permit issued under provisions of Part 51.18 of the SIP.

To specifically answer your questions, a binding permit condition limiting the hours of operation could be placed on the shredder. This would, in effect, limit the operation of the two diesel engines which drive the shredder. However, limited hours of operation of the shredder would not provide an enforceable limitation on the diesel engines which provide electricity for the entire plant. These engines can be operated independently from the shredder and could be used for purposes other than the actual shredding process.

If limited hours of operation are placed on the shredder, the source's potential to emit would include the maximum design capacity of the two engines used for plant electricity (without hour limitations) and the design capacity of the engines which drive the shredder, including any federally enforceable conditions which limit the hours of operation.

If you have any questions regarding this determination, please contact Janet Littlejohn of my staff at 755-2564.

Edward E. Reich

cc: Jim Weigold (OAQPS)  
Peter Wyckoff (OGC)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION II

DATE: May 19, 1980

SUBJECT: Request for Guidance on Application of PSD Regulations

FROM: Samuel P. Moulthrop, Acting Chief  
General Enforcement Branch

TO: Edward E. Reich, Esq. (EN 341)  
Director, Stationary Source Enforcement  
Division

The Industrial Scrap Processing Company constructed a new automobile body shredding plant during 1979 in the Bronx, New York, without first applying for or obtaining a PSD permit; the company also failed to obtain the required operating permit from the State of New York. Region II has initiated enforcement actions against the company for several violations, and is presently involved in settlement negotiations. The company expects to apply for and receive its New York State Certificate to Operate this summer; it will also apply for a PSD permit if one is necessary.

This memorandum seeks your guidance on the application of the PSD regulations with particular respect to one issue which has been raised. The auto shredder is directly driven by two diesel engines. Two additional diesel engines are used to generate all the electricity used at the plant (the facility apparently does not draw any power from Consolidated Edison). Auto shredding is the only activity at the plant. The company does not expect to use the shredder constantly.

Potential emissions from the four diesel engines exceed 250 tons per year of Carbon Monoxide and NOx. The company would be willing to accept a binding permit condition limiting its annual hours of operation so as to reduce the potential emissions to below 250 tons. Our question involves the enforceability of such permit conditions, and their acceptability for the purpose of limiting potential emissions for PSD review.

As you will recall, New York State does not require that diesel engines be covered by operating permits; New York City does. Only the State's permitting authority is a portion of the New York SIP. The City's operating permits covering the four diesel engines, then, will not be enforceable by EPA, and would not alone be satisfactory to limit the calculation of potential emissions.

The shredder itself, however, must hold a State Certificate to Operate, and a limitation on operating hours could be included in that permit. Our question is whether such a condition may be viewed as limiting the operation of the diesel engines also. It would appear that this question can be broken down into two further questions:

- (a) Would an enforceable limit on operating hours applicable to the shredder itself be an enforceable limit on the operating hours of the two diesel engines which provide direct power to the shredding machine?
- (b) Would the limit on the shredder be an enforceable limit on the operating hours of the two additional diesel engine electric generators, since their sole use is supplying electricity to the plant, and the sole use of the plant is shredding cars?

It may be logical to answer Question (a) in the affirmative, since the two direct drive engines have no function other than to operate the shredder. Question (b) is more difficult; although the second pair of engines is not likely to be used unless the shredder is also being used, there is nothing to prevent the company from operating them independently.

I would appreciate having your response as soon as possible so that we can advise the company as to our interpretation of the regulations. If you need any further information please contact Walter Mugdan, Esq. at (FTS) 264-4434.

